

The 8th/13th June, 1967

No. 7380/B CANC ELLATION.—This office Gazette Notification No. 4027/B, dated 20th March, 1967, is hereby cancelled.

No. 7381/B.(.) LEAVE.—The Governor of Punjab/Haryana is pleased to grant 9 day's earned leave from 23rd October, 1966 to 31st October, 1966 to Shri Mohinder Singh, Offg. P. D. S. P., under rule 8.116 of the Punjab Civil Services Rules, Volume I, Part I.

It is certified that Shri Mohinder Singh would have continued to officiate as P. D. S. P., had he not proceeded leave.

On the expiry of his leave, he was likely to return to the same post, where dearness and other allowances are attached.

The 9th June, 1967

No. 7398/B.—Leave.—The Governor of Haryana is pleased to grant 120 days' earned leave from 2nd June, 1967 to 29th September, 1967 to Shri Mahendra Singh, Offg. P. D. S. P. Vigilance Commission, Haryana, under Rule 8.116 of the Punjab Civil Services Rules, Volume I, Part I.

On return from leave the officer is likely to return to a post to which dearness and other allowances are attached.

LABOUR AND EMPLOYMENT DEPARTMENT

The 6th June, 1967

No. 4082-3Lab-67/ 16514.—In pursuance of the provisions of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and management of M/s Soligen Art Industries, Railway Road, Faridabad :—

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH

Reference No. 33 of 1967

between

The workmen and The Management of M/s Soligen Art Industries, Railway Road, Faridabad.

Present.—

Shri R. L. Sharma, for the workmen.

Nemot for the management.

AWARD

An Industrial Dispute having come into existence between the workmen and the management of M/s Soligen Art Industries, Railway Road, Faridabad, the same was referred for adjudication to this Tribunal under clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947,—*vide* Haryana Government Notification No. 88-SF-III-Labour-67/2828, dated 15th February, 1967.

The three items of dispute as mentioned in the said notification are as under :—

1. Whether the workers are entitled to the grant of bonus for the years 1964-65 and 1965-66 ? If so, what should be the quantum of bonus and terms and conditions of its payment.
2. Whether the workers should be paid any dearness allowance ? If so, with what detail and from which date ?
3. Whether the termination of services of Shri Paras Singh was justified and in order ? If not to what relief is he entitled ?

Usual notices were issued to the parties but the management did not appear in spite of service. In fact service on the management was effected twice once for one date and second time for another date. The management did not choose to appear on any of the two dates with the result that I was compelled to take *ex parte* proceedings against the management. The workmen produced their *ex parte* evidence on item No. 1 of the dispute but they produced no evidence at all with respect to item 2 of the dispute. My finding on the various items are as under :—

1. *Item No. 1 of the dispute.*—it is established from the *ex parte* evidence that the factory in question was set up in 1952 and the products of the said factory came into market in the same year.

Had he not proceeded on leave, Shri Mahendr. Singh would have continued to officiate as P. D. S. P.

No. 7400/B.—L EAVE.—The Governor of Haryana is pleased to extend 15th day's earned leave from 5th May, 1967 to 20th May, 1967 Shri Mohan Singh, Deputy Supdt. of Police, 5th H.A.P. Battalion Kulu, under rule 8.116 of the Punjab Civil Services Rules, Volume I, Part I.

On the expiry of his leave, he was likely to return to a post to which dearness and other allowances are attached.

It is certified that Shri Mohan Singh would have continued to officiate as D.S.P. had he not proceeded on leave.

No. 7524/B(H).—Posting. The Governor of Haryana is pleased to post Shri S. P. S. Rathore, I. P. S., as Assistant Superintendent of Police, Hissar, on his return from leave with effect from the forenoon of 4th June, 1967.

The 14th June, 1967

No. 7546/B(H).—posting.—The Governor of Haryana is pleased to post Shri Swadesh Kumar, I.P.S., Assistant Superintendent of Police to Gurgaon District with effect from the forenoon of the 5th June, 1967, when he returned from leave.

BHAGWAN SINGH ROSHA, Joint Secy.

also established that the factory is employing at present 30 or 35 workmen. Under the circumstances the payment of Bonus Act, 1965 is applicable to them. Since no evidence has been produced before me in support of the higher claim of bonus I allow minimum bonus provided for in Section 10 of the Act. This will, however be subject to provisions of Section 8, 9 and 13 of the Act. The management shall pay the amount of aforesaid bonus within two months of the publication of this award.

2. *Item No. 2 of the dispute.*—No evidence having been led in support of the demand covered by this item, the same is dismissed.

3. *Item No. 3 of the dispute.*—The management has failed to appear and substantiate that the termination of services of Shri Paras Singh was justified and in order. Shri Paras Singh has himself come into witness box as A. W. 1 and has stated that no enquiry was held against him and that his dismissal was unjustified. In the absence of any evidence by the management on whom the onus really lay, I do not find any reason for rejecting the evidence of Shri Paras Singh. Under the circumstances I hold that the termination of services of Shri Paras Singh was neither justified nor in order. The management will reinstate him with continuity of and without any break in his service and would also pay him back wages from the date he was removed from service to the date he is actually reinstated. The wages for the aforesaid period will be calculated on the basis that he has continued to remain in service. The re-instatement and the payment of wages will be made by the management within two months from the date of publication of this award.

No order as to cost.

Dated 17th May, 1967.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal,
Haryana, Chandigarh

No. 627, Dated Chandigarh the 18th May, 1967.

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required by Section 15 of the Industrial Disputes Act, 1967.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal,
Haryana, Chandigarh.

No. 4195-3-Lab-67/16516.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and management of Messrs Hindustan Vacuum Glass Ltd., Faridabad :—

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH
Reference No. 34 of 1967

between

THE WORKMEN AND THE MANAGEMENT OF MESSRS HINDUSTAN VACCUM
GLASS, LTD., FARIDABAD

Present:—

Shri V. K. Khanna, for the management.

Shri A. R. Handa and Shri G. C. Joshi, for the workmen.

AWARD

An Industrial Dispute having come into existence between the workmen and the management of Messrs Hindustan Vacuum Glass Ltd., Faridabad, the same was referred to this Tribunal for adjudication under clause (d) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947,—*vide* Haryana Government notification No. 79-SF-III-Lab-67/3086, dated 15th February, 1967. The two items of dispute which are mentioned in the said notification are as under :—

- (1) Whether Fitters, Turners, Operators and Firemen should be given seasonal uniforms ? If so, with what details ?
- (2) Whether the workers working on hot places should be given heat allowance ? If so, from which date and with what details ?

Usual notices were issued to the parties and in response to the same the workmen filed their statement of claims and the management filed their written statement to the same. The management took a preliminary objection that the workmen were precluded from raising the dispute in question because of a settlement effected between the parties on 29th

April, 1966, copy of which they filed alongwith their written statement. The pleadings of the parties gave rise to three issues which are as under :—

- (1) Whether Fitters, Turners, Operators and Firemen should be given seasonal uniform ? If so, with what details ?
- (2) Whether the workers working on hot places should be given heat allowance ? If so, from which date and with what details ?
- (3) Whether the settlement referred in para No. 1 of the written statement of the management debars the workmen from raising the demand in question ?

Both the parties led their evidence on the aforesaid issues and their representatives later addressed their arguments to me. My findings on the various issues are as under :—

Issue No. 1.—The case of the workmen is that certain categories of workmen which are mentioned in this issue have to perform such type of duties on which their clothes are soiled. This claim is repudiated by the management whose case is that there is little chance of the clothing of these categories of workmen being soiled and that they are not entitled to any uniforms. The workmen have produced two witnesses A.W. 1 and A.W. 2, who no doubt support their claim. The management have produced as a witness Shri Narinder Singh Sokhi who is their Deputy Manager (Technical). He has stated that "Fitters, Operators, Bubblers and firemen work under me. They are not provided with any uniforms because their clothes are not soiled to the extent to which the clothes of others are soiled, whom we are providing uniforms. There is little chance of the clothings of the fireman and the bubblers being soiled. Of course they get soiled but this is when proper care is not taken". After giving my careful consideration to the evidence I feel that it is established on the record that the clothings of the workmen who are in the categories mentioned in this issue do get soiled during their duty. I have no reason to disbelieve A.W. 1 and A.W. 2 more especially when Mr. Sokhi also admits that the clothing of the workmen in categories mentioned in item No. 1 of the dispute get soiled although not to the extent to which the clothings of the other categories of workmen get soiled. The management as also the workmen admitted before me that the total number of workmen in all these four categories is hardly 20. I feel that these workmen should be provided with some sort of uniforms. The representative of the management suggested during the course of argument that they may be provided with aprons. The workmen stressed that they should have atleast two summer uniforms and one winter uniform. After giving my careful consideration to the matter I feel that the management should only provide the workmen of the categories mentioned in item No. 1 of dispute two summer uniforms in a year each of which should consist of one shirt and one pant made of blue zeen. It is unnecessary to provide any winter uniforms to them because the only ground on which the uniforms are asked for is that their clothings get soiled. I, therefore, direct the management to provide to each of the workmen of these categories two such uniforms each of which should consist of a shirt and pant made of blue zeen cloth, within two months of the publication of this award in the official gazette.

Issue No. 2.—The case of the workmen is that those of them who work on hot places should be given heat allowance. This claim has not been substantiated by the workmen. It has not been proved to my satisfaction that such heat allowance is being paid in any of the other concerns doing the same type of job. The evidence led by the workmen on this point is extremely meagre. The management have on the other hand produced in evidence Shri S. C. Sharma who is their Senior Glass Technologists, and who has stated that he has been on this job for over 15 years and has worked in different factories manufacturing the Vacuum Glass. He has further stated that in no other factory such an allowance is being gaid. I have no reason to disbelieve him. Apart from this, I find that the factory in question has been suffering losses ever since its inception. In reference No. 28 of 1965, a claim was made by the workmen for the grant of dearness allowance, I was then the Presiding Officer of the Industrial Tribunal, Punjab, and I rejected the said claims of the workmen on the findings that the concern in question had been suffering losses since 1962-63 which amounted to about 10 lacs a year. This award was given by me on the 12th November, 1965 and a copy of the same has been placed by the management on this record. The management have also produced their balance-sheet for the year 1966, and this again shows a loss of about 10 lacs. It cannot be denied that heat allowance, if allowed would be a part of the wages and until I am able to find that the concern in question can bear any burden for the increase in wages, I would not be justified in allowing the heat allowance. This issue is decided against the workmen and their demand covered by item No. 2 of the dispute is dismissed.

Issue No. 3.—In the settlement relied upon by the management some dearness allowance was allowed by them to the workmen and it was stated in paragraph four of the settlement that "the workmen appreciate the management's gesture of goodwill and hereby agree not to raise any other demand, of whatsoever nature, involving financial burden, on the management, either themselves jointly or severally or through any other union of workmen during the period this agreement remains in force". I do not think that this is a

725

settlement of any real dispute. It may be that the workmen at that time said that they appreciated the management's gesture of goodwill but the agreement given in term No. 4 of the settlement could not possibly be deemed to preclude them from claiming uniforms if they were otherwise entitled to them. No authority was cited before me in which such a clause may have been treated as a settlement of any matter so as to preclude the workmen making any claim of whatsoever nature it may be. A plain reading of the settlement as a whole shows that the management granted dearness allowance *ex-gratia* and merely as a gesture of goodwill and that it was not granted in consideration of the workmen agreeing to debar themselves from raising any type of dispute which may have financial repercussions. This issue is decided against the management. No order as to cost.

K. L. GOSANI,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

Dated the 19th May, 1967.

No. 631, dated Chandigarh, the 20th May, 1967

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 4196-3Lab-67/16530—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and the management of M/s Globe Steels, Mathura Road, Ballabgarh.

**BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH.**

Reference No. 94 of 1955

between

**THE WORKMEN AND THE MANAGEMENT OF M/S GLOBE STEELS, MUTHURA
ROAD, BALLABGARH.**

Present :—

Shri G.C. Joshi and Shri A.R. Handa, for the workmen.

Dr. Anand Parkash, for the management.

AWARD

An Industrial Dispute having come into existence between the workmen and the management of M/s Glob Steels, Ballabgarh, the same was referred for adjudication to the Industrial Tribunal, Punjab under clause (d) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947, — *vide* Punjab Government notification No. 626-SF-III-Lab-1-65/28431, dated 14th October, 1965. Two items of dispute as mentioned in the said notification are as under :—

1. Whether the termination of services of Shri Singara Singh Tongsman is justified and in order ? If not to what relief he is entitled to ?
2. Whether grades and scales of pay be fixed for each category of workmen ? If so, at what rate and what details ?

The Industrial Tribunal, Punjab issued usual notices to the parties and in response to the same, the workmen filed their statement of claims and the management filed their written statement to the same. Necessary issues were then framed by the Tribunal and the parties were called up to lead their evidence in respect of the same. While the case was still pending in the said Tribunal, Punjab Re-organisation Act came into force and by reason of Section 93 of the said Act the case stood transferred to this Tribunal. Notice were then served on the parties and opportunity was given to them for producing their evidence. After the said evidence concluded the representatives of the parties addressed their arguments to me and my findings on the two items of dispute are as under :—

1. *Item No. 1 of the dispute.*—The case of the management is that Shri Singara Singh Tongsman in their factory applied for leave for the 13th and 14th of February, 1965 and the said leave was granted to him. Shri Singara Singh did not report for duty on the 15th of February, 1965 as he was arrested by the Police in some theft case. He did not report for duty at all and on the 21st of March, 1965 his name was struck out from the rolls of the workmen and he was treated as having lost his lien on the

post. The management gave him notice on 4th March, 1965 (copy Exhibit M. 5) asking him to report for duty but he refused either to acknowledge the receipt of it or to act on its basis. The management wrote a letter to him on 21st March, 1965 (copy Exhibit M. 4) by which he was informed that his name had been struck out and that he had lost lien on the job. It is proved by the evidence of the management then the workmen of this factory are governed by the Model Standing Orders and the management in this case rely on part (3) of the Standing Order No. 9 which reads as under :—

"(3) If the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he (a) returns within 8 days of the expiry of the leave and (b) explains to the satisfaction of the manager his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the badli list."

The case of the workmen on the other hand is that Shri Singara Singh sent an application for leave from 15th to 24th February, 1965 but he was not informed of the result of the said application. It is also urged by the workmen that when Singara Singh was released on bail on the 24th February, 1965, he reported himself for duty on the 25th February 1965 and the management did not let him resume duty. Shri Singara Singh has himself come into the witness box and has also produced Shri Harcharan Singh as his witness. Three officers of the concern namely Shri S. P. Kapoor, Security Officer, Shri Mukhtiar Singh Rolling Mill Manager and Shri M. L. Dua, Head Time Keeper, have appeared as witnesses on behalf of the management and have stated that no application at all was made for leave by Shri Singara Singh for the period from 15th of February to the 24th of the said month. After giving my careful consideration to the evidence of the parties I am definitely of the opinion that the workmen have failed to establish that any leave application was made by Singara Singh for the period from 15th to 24th of February 1965. I have no reason at all to disbelieve the evidence of the aforesaid officers of the company that no leave application was made for the period in question. It is really difficult to believe that after his arrest on the morning of the 15th February, 1965, Shri Singara Singh would have thought of making such an application or could possibly be in a position to make it. At any rate it is not the case of the workmen that leave was granted to Shri Singara Singh from 15th to 24th February, 1965. If Singara Singh had really reported for duty on the 25th morning and had not been allowed to resume the same he would have in the ordinary course sent a registered letter to the management saying that he had been wrongly refused to resume duty. It is important to note that in between the 24th of February, 1965 when Singara Singh was actually released on bail and the 18th of March, 1965 when he wrote a letter to the Labour Inspector, he took no steps at all to contact the management by any registered letter or telegram that he should be allowed to resume duty. During this period he did not make any written complaint to the union or to go to the Labour Inspector making any grievances of the fact that he had not been allowed to resume duty. In the circumstances I have no hesitation in holding that the pleas of Shri Singara Singh that he made a leave application for the period between 15th and 24th February, 1965 or that he reported himself for duty on the morning of the 25th February, 1965 are absolutely false and untenable. He remained absent without leave for over a month from 15th February onward and the management had full justification both for coming to the conclusion that he had lost his lien on the job and for refusing to allow him to resume duty thereafter. The demand covered by item No. 1 of the dispute is therefore, dismissed.

2. *Item. No 2 of the dispute*—During the pendency of the reference the parties arrived at a settlement on 26th July, 1966 copy of which was filed by the management in this court with their application dated 12th October, 1966. Paragraph 1 of the terms of settlement reads as under :—

"1. The Management have since issued letters to the individual workers placing them in various broad categories of grades and scale of pay. In case of any difficulty in its implementation or difference about it, the parties will try to settle the matter by mutual discussion and if necessary with the help and guidance of the Labour Inspector, Faridabad and Labour Officer, Rohtak"

The case of the management is that the matter of grades and scales was settled by the above term of the settlement. In the interest of justice I thought it fit to record the statement of the representative of the management on this point and I did so on 17th May, 1967. He stated as under:—

"All the workmen have received the letters of the management regarding their grades and scale and no one has raised any objection against the same. The management have given every workman a substantial rise in wages and has also fixed grades and scales of every permanent and every temporary workman. The wages were increased and grades and scales given with effect from 1st May, 1966 and all the workmen are drawing their wages on the revised scale since then. 1st increment under the grade shall be given to them w. e. f. 1st May, 1967. Notices were sent to them in form EX. 'A' which I produce.",

From the above statement it is quite clear that the workmen have accepted the grades and scales given to them and that the alleged settlement has in fact been implemented. The representative of the workmen challenged the settlement as not being a complete one but he was totally unable to convince me that this was so. The management fixed the grades and scales for each of their employees and informed each of them with respect to the same. If none complained for a year that his grade and scale was not adequate, it is now futile for the workmen to say that grades and scales had not been fixed. Even if some employees had raised objections, the proper course for them would have been to get their individual cases referred for adjudication. Fixation of employees in certain grades and scales is generally a managerial function. In this particular case, however, I find that the grades and scales which have been fixed were acceptable to the workmen and that they are actually drawing their wages under the said grades and scales without any objection. The demand covered by item No. 2 of the dispute is, therefore, dismissed as having become infructuous in view of the action of management in having fixed the grades and scales for each of the employees.

Before concluding, however, I may mention that the management had raised one or two preliminary objections against the validity of reference quo item No. 1 of the dispute. Issue Nos. 1 and 2 were framed with regard to it but it is now unnecessary to go into the said objections as the demand covered by the said item of dispute is being dismissed by me on merits. No order as to cost.

K. L. GOSAIN

Dated 19th May, 1967.

Presiding Officer,
Industrial Tribunal,
Haryana, Chandigarh.

No. 632 dated Chandigarh, the 20th May, 67.

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required by Section 15 of the Industrial Disputes Act, 1947

K. L. GOSAIN
Presiding Officer,
Industrial Tribunal,
Haryana, Chandigarh.

No. 4179-3Lab-67/16532.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s Indian Motor Transport Co. (P), Ltd., Karnal:—

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT, ROHTAK

REFERENCE No. 35 OF 1967

between

THE WORKMEN AND THE MANAGEMENT OF M/S INDIAN MOTOR TRANSPORT CO.,
(P), LTD., KARNAL

Present :

Shri Harbans Lal, Office Secretary, The Karnal General Transport Workers Union (Regd), Karnal, on behalf of the workmen.

Shri Bhupinder Singh, manager of the respondent company with Shri D. C. Chadha, on behalf of the management.

AWARD

An industrial dispute having arisen between the workmen and the management of M/s Indian Motor Transport Co., (P), Ltd., Karnal, the Government of Haryana by means of their gazette notification No. 134-SF-III.Lab-67, dated 21st March, 1967, and in exercise of the powers conferred on them by section 10 (1) (c) read with the proviso to that sub-section of the Industrial Disputes Act, 1947, have referred to this Court for adjudication the matters mentioned below :—

- I. Whether the workmen are entitled to the grant of annual increments? If so, at what rate and with what details?
- II. Whether the drivers and conductors are entitled to increase in night allowance? If so, with what details?

Usual notices were issued to the parties and in response thereto the workmen filed statement of their claim and the respondent management filed their written statement denying the claim of the workmen. The first hearing of the case took place at Karnal on 10th May, 1967. On that date the parties got an adjournment to enable them to arrive at a settlement. The case was accordingly adjourned for to-day at Rohtak. At to-day's hearing Shri Harbans Lal, office secretary of the Karnal General Transport Workers Union (Regd), Karnal, was present on behalf of the workmen and Shri Bhupinder Singh, manager of the respondent company was present with Shri D. C. Chadha on behalf of the management. The authorised representatives of the parties made the following statements :—

Statement of Shri Harbans Lal on behalf of the workmen on solemn affirmation.

The parties have arrived at a comprehensive settlement, dated 17th May, 1967, in the course of conciliation proceedings before the Conciliation Officer, Karnal. This settlement includes the claims on which the present reference is based. The present reference has, therefore, become infructuous and may be filed

Statement of Shri D. C. Chadha on behalf of the management on solemn affirmation.

I have heard the statement made by Shri Harbans Lal, above. It is correct. The reference may be filed.

In terms of the aforesaid statements of the authorised representatives of the parties, I file the present reference. There will be no order as to costs of these proceedings.

This award is submitted to the Government of Haryana, Department of Labour as required under section 15 of the Industrial Disputes Act, 1947.

HANS RAJ GUPTA,

Presiding Officer,

Labour Court, Rohtak.

The 19th May, 1967.